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Letter dated 4 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Poland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 28 April 2006 from the Permanent Representative of Poland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In response to your letter of 7 December 2005, and on behalf of my Government, I have the honour to submit herewith the fifth supplementary report to the report transmitted to the Counter-Terrorism Committee on 21 December 2001 on the measures taken by the Republic of Poland to implement the provisions of Security Council resolution 1373 (2001) (see enclosure).

Please note that the paragraph numbers used in the present report refer to those paragraphs in which specific questions or requests are contained in your letter of 7 December 2005.

As requested, please find enclosed the translation of the Act of 16 November 2000 on *Counteracting the Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism*.

My Government stands ready to provide the Committee with further information, as necessary, or if requested to do so by the Committee, and to assist it in the assessment of the implementation of the resolution.

(*Signed*) Andrzej **Towik**
Ambassador
Permanent Representative

Enclosure*

Ad 1.1

As a result of the legislative process mentioned in the previous reports, The Act of 16 April 2004 on the Amendments to the Act – The Penal Code and some other laws (Official Journal No 93 item 889), which entered into force on 1 May 2004 - introduced several further regulations on the prevention of and combating terrorism. Article 115 of the Penal Code was supplemented with § 20 containing the definition of an "offence of a terrorist character" - it is a prohibited act subject to penalty of imprisonment of up to at least 5 years, committed with the purpose of:

1. serious intimidation of a large number of persons,
2. compelling the public authorities of the Republic of Poland or of another State, or the agency of the international organisation, either to perform or abstain from performing any act,
3. causing serious disorder in the system of government and the economy of the Republic of Poland, or of another State, as well as threatening to do so.

Article 115 relates to the prohibited acts, whose elements of crime are provided for in the existing provisions of the penal law.

The terrorist character of the prohibited act is considered as aggravating circumstance increasing the penal liability, which is reflected in the Articles 65 and 258 of the Penal Code.

Article 65 § 1 of the Penal Code, which relates to the use of the rules of sentencing with regard to perpetrators who made commission of offences as their permanent source of income, or who committed offences acting in an organized group or association whose purpose is to commit offences, and as well to the perpetrators of offences of a terrorist character, obligatorily imposes stricter sentencing on the perpetrators of the above-mentioned offences (under the same rules that apply to habitual offenders).

In turn, the content of Article 258 of the Penal Code, which penalizes participation in an organized group or association aimed at committing offences or fiscal offences, was amended as follows: § 2 of this provision was supplemented with an element of the activities of organized groups or associations with the purpose of committing a terrorist offence (*"If the group or association (...) has the characteristics of an armed organisation or are aimed at committing an offence of a terrorist character"*). This offence is subject to a stricter penalty of imprisonment, namely from 6 months to 8 years. In § 4 a new type of offence was introduced, namely a crime that involves an organized group or an association launched and controlled with the purpose of committing a terrorist offence (*"Whoever sets up the group or association aimed at committing an offence of a terrorist character, or leads such a group or organisation"*). In such case the court imposes the penalty of deprivation of liberty for a term not shorter than 3 years.

Moreover, the content of Article 110 § 1 of the Penal Code was also changed. According to the new text of this provision, the national jurisdiction has been extended to include the application of the Polish penal law on the foreigner who committed a terrorist offence outside the territory of Poland.

In the Polish Penal Code there is no stand-alone offence related to the financing of terrorism. It does not mean, however, that financing of terrorism remains unpunished. Under Polish law, such action would be treated as aiding to commit a terrorist offence. The lack of inclusion of the financing of terrorism as a stand-alone offence in Polish law results from the specific character of the concept of aiding (and abetting) under Polish criminal law.

* Annexes are on file with the Secretariat and are available for consultation.

The concept of aiding (and abetting) provided in Polish law differs from its counterparts in legal systems of other countries and is considered to be unique. Unlike under legal systems (especially common law), Polish penal law does not see aiding as participating in the crime of a principal offender as a secondary party (accessory). On the contrary, aiding constitutes a distinct and independent form of offence. According to Polish law, aider realizes his own "set of elements of crime" which is different from the one of a direct offender. Aider is, under Polish law, liable to the same penalty as the direct offender; his liability is - as a rule - independent from the liability of the person who actually commits the substantive offence.

However, in order to fully comply with the obligations imposed by Security Council resolution 1373 (2001) and also taking into account the opinion that was expressed by the Counter-Terrorism Committee in the letter of 31 January 2006, Poland has recently initiated a legislative procedure aimed at introducing into the Penal Code financing of terrorism as a separate, *sui generis* offence.

Ad 1.2.1

Pursuant to Articles 18 and 18a Act of 16 November 2000 on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism (further: the Act; General Inspector of Financial Information may demand the obligated institutions to suspend the transaction or to block the account. Transaction shall mean payments and withdrawals in form of cash or not involving cash, including also transfers between different accounts belonging to the same holder of the account, excluding transfers onto term deposit accounts, as well as transfers coming from abroad, foreign currency exchange, transfer of ownership or possession of property values, including giving such values on consignment or as collateral and transfer of property values between accounts belonging to the same client, a claims-for-shares or claims-for-stocks swap – both when these activities are performed on one's or someone else's behalf, and on one's or someone else's own. Therefore General Inspector of Financial Information cannot only demand the suspension of a transfer of legal tenders, but also suspend a transaction of sale/purchase of real estate and giving property values on consignment or as collateral. General Inspector of Financial Information is entitled to suspend the transaction or to block the account for a period not exceeding 48 hours following confirmation of the notification receipt. At the same time the General Inspector shall notify the proper public prosecutor about the suspected offence and shall forward to him the information and the documents relating to the suspended transaction or the account blocked.

Ad 1.2.2

Pursuant to the Act, General Inspector of Financial Information is not entitled to freeze funds and assets. Nevertheless it is possible to exercise the legal powers mentioned above on the basis of Polish criminal law and international agreements.

Special forfeiture in a money laundering context is addressed in Article 299 § 7 of the Penal Code: In the event of a conviction for the offences in § 1 or 2 above [i.e., the major substantive laundering offences] the court shall decree the forfeiture of objects originating directly or indirectly from the committed offence as well as the forfeiture of any benefits derived from this offence or an equivalent thereof, even if these are not the property of the offender. Complete or partial forfeiture shall not be

decreed if an object, benefit or equivalent thereof is subject to restitution to the offence victim or some other entity.

In order to ensure that the proceeds of crime and related property are not dissipated prior to conviction, forfeiture is set out in Articles 291 to 295 of the Code of Criminal Procedure. In essence this allows the authorities to obtain security against the property of the accused. Such security may consist of the seizure of movables, liabilities and other property rights and in the prohibition of selling and encumbering real estate. Such powers extend to bank accounts.

Article 291. § 1. Securing the execution of a decision by property belonging to an accused person can be legally introduced in case of a crime, for the commitment of which a fine, forfeiture, interests, a pecuniary compensation or an obligation to indemnify the damages or compensate for the resulting injuries can be imposed.
§ 2. Securing the claims to indemnify the damages can be legally introduced in case of committing a crime against property or the damages that have been caused by committing a crime.

Article 292. § 1. Security can be imposed in accordance with the procedure provided for in the Code of Civil Procedure.
§ 2. Securing the imminent forfeiture shall be made by the seizure of chattels, receivables and other property laws and through imposing an interdiction of selling or mortgaging a real property. The interdiction shall be recorded in a real-estate register or – in case there is no proper real-estate register – in the compiled documents. As need arises, it is possible to establish an administrator of real property or the company belonging to the accused.

Article 293. § 1. The decision about the security shall be made by the court or – during preparatory proceedings – by a public prosecutor. The decision shall determine the scope and manner of security.
§ 2. Decision on security can be subject to complaint. The complaint regarding the decision on security made by a public prosecutor shall be adjudicated by a district court, within the jurisdiction of which the proceedings have been initiated.

Article 294. § 1. Security ceases if the following are not legally decided: a fine, a forfeiture, interests, a pecuniary compensation; or an obligation to indemnify the damages or compensate for the resulting injuries have not been imposed within 3 months from the date of validation of the decision.
§ 2. In case of instituting an action within the period provided for in § 1, a security remains in force, unless the court decides otherwise in the course of civil proceedings.

Article 295. § 1. In case of committing of the crime referred to in Article 291, the Police can perform temporary seizure of property of a suspect if there is a risk that the property may be removed.
§ 2. Provisions stipulated in Articles 217-235 shall apply respectively.
§ 3. Temporary seizure of property cannot refer to the objects that are not subject to execution.
§ 4. Temporary seizure of property ceases if a decision on securing by property has not been made within 7 days from the date of the commencement of the seizure.

As to the request of a foreign jurisdiction funds and assets can only be frozen during criminal proceedings.

Poland is a part of different agreements in the field of mutual legal assistance, which set forth the terms of international cooperation. Apart from that, Poland as a Member of European Union, in the Code of Criminal Proceedings, specifies also the terms of obtaining security against the property in case of a decision taken by law enforcement authority of the other EU Member State.

Ad.1.3
Common criteria for identifying suspicious transactions – guidebook for obligated institutions

The Polish Financial Intelligence Unit has developed a set of indicators for specific categories of obligated institutions that take into account the money laundering mechanisms used in Poland. From the point of view of money laundering methods the best and the most rational solution is to determine the "laundering risk" in relation to all clients, classifying them according to "low" or "high" risk.

While designating suspicious transactions, it is best to use a set of pre-determined criteria. One may distinguish universal and particular (detailed) criteria.

Universal criteria can be further divided into activity profile criteria, geographical criteria and economic criteria.

Activity profile criterion
The activity profile criterion is useful while assessing the kind of economic activity and rules applied to this particular sector, as well as relating to particular high risk commodities and services, being subject of turnover by institutions and companies, and which are characterised by an elevated risk level. Taking under consideration a complex nature of this criterion, auxiliary elements should used. The presented below particular (detailed) criteria constitute these elements.

Geographical criterion
The geographical criterion is useful to investigate transactions, which are not justified by a kind of economic activity, but the clients conduct business with so called "risk areas", and in particular with countries and areas:

- where drugs are manufactured, e.g. "Golden Triangle" countries (Burma, Laos, Thailand), the "Golden Crescent" (Afghanistan, Pakistan, and Iran), transit countries (Turkey, Bulgaria, Hungary, the Czech Republic and Slovakia, e.g.);
- where non-restrictive tax laws are introduced, the so called "tax oasis", for example Panama, Montserrat, Great Cayman, Bahamas Islands, Puerto Rico, Dutch Antilles, Anguilla, Virgin Islands, Nauru, Andorra, Gibraltar, Liechtenstein, Luxembourg, Monaco, Isles of Man, Jersey and Guernsey;
- Central and Eastern Europe, where significant threats to the banking system can be observed: the Czech Republic, Slovakia, Hungary, Bulgaria, Romania as well as the countries established after the fall of Soviet Union: Belarus, Ukraine, Lithuania, Latvia, Estonia and Russia.

- Countries that support terrorist activities or in which there are a lot of acting terrorist groups, in particular Iran, Iraq, Libya, Sudan, Syria, Afghanistan.

Economic criterion

Economic criterion is related to analysis of irrational clients' behaviours, which may be demonstrated in following ways:

- ordering economically unjustified transactions, when the aim of the transaction or operation is not in accord with the up-till-then rules and a kind of conducted economic activity;
- selection of a bank division to open an account, not justified by e.g. an address of a permanent residence, place of job, location of a client or his/her plenipotentiaries;
- operation of many bank accounts not justified by the kind of conducted activity;
- making such cash payments that sum up to large amounts;
- quick and frequent withdrawal from the account of previously paid in financial resources, apparently without any rational reasons;
- sudden increase of the clients commotion, with no indication of reliable reasons;
- receipt of a credit independent of the cost and then its quick pay-back;
- instructions on operations which are not in line with previous behaviour of the client;
- investments in securities when the client is not interested in profits thereof, such as apparent activities on a stock-exchange or only paying funds into an investment account not followed by any tangible stock transactions.

Criterion of a particular nature of client activities

As a particular (detailed) criterion, it is useful to implement a criterion of a particular nature of client activities. Among them the following could be distinguished:

- import and export transactions (contracts with the abroad create the most of real threats), and in particular trade in mass and easily sold commodities, such as corn, sugar, crude oil, cigarettes and alcohol;
- transactions with jewellery shops, including purchase of jewellery and other high value items;
- tourist services (the owner of a tourist office pays into the bank payments of alleged clients, then orders a transfer abroad, not necessarily to countries mentioned in the geographic criterion – as an overcharge for tourist services. No one checks if the trip was practically executed).

Checking upon a random client

Another particular (detailed) criterion is questioning of a random client, that for example:

- in order to evade registration makes multiple payments below the threshold (in different tellers, in different divisions, in different financial institutions);
- conducts a large scale purchase, or in amounts not subjected to registration, of available financial instruments using for those purposes different accounts, different divisions and different financial institutions.

High risk product criterion

It is very important to use the high risk product criterion. It allows, for example, to separate suspicions relating to:

- purchase of such products, which immediately allow to exchange cash into other products or financial instruments, such as checks, securities, while the most practical are the bearer instruments, such as bonds, certificates;
- receiving by the clients of such products, which allow to immediately transfer of pecuniary funds from jurisdiction of one country to the jurisdiction of another country in order to efficiently hide the source of money of criminal origin.

What is useful for designating a suspicious transaction?

It should be stressed that while designating suspicious transactions, it is necessary to make use of a wide number of various elements, such as:

- professional analysis of the transaction registry kept according to the laws in force;
- using universal and detailed criteria and risk groups which facilitate, and above all – enable the use of a concrete method to analyse the registry – the use of specific methodology for transaction analysis;
- regular analysis of clients' behaviour while paying a visit to the obligated institution;
- professional implementation of "learn your client" programme
- current clearing up of suspicious behaviour of the client;
- other circumstances indicating that the client and his/her transactions need more attention;
- knowledge of numerous fields: finances, economy, and banking, economy, civil, currency, penal laws, as well as criminology, criminalistics, customer psychology, sociology and many other fields of knowledge;
- intuition, which is often necessary in the most difficult cases.

Suspicions detected based on one criterion may not be of importance. It is necessary to confirm the doubts based on still other principles and procedures. The best confirmation of suspicions is a confirmation based on a number of detected and diversified elements (based on results of analyses of operations instructed by clients). It is difficult to suggest any concrete number of detected or indispensable elements with an understanding that we have disclosed a sufficient number of elements to make a decision. Three elements may be sufficient in one institution, while in another one – five or seven. So, the more elements are within the disclosed doubts, the higher is the assurance that we are dealing with a suspicious transaction. Concluding, it should be stressed that a skilful designation and recognition of a suspicious transaction depends only on the level of professionalism of the registry analyst and the team of consultants.

During trainings organised by GIFI obligated institutions often reported the need to publish a study offering practical assistance in implementation of tasks imposed on them. In order to meet these demands an innovative publication entitled "*Counteracting money laundering*" was prepared by the Team of the General Inspector in 2004, addressed to entities obliged to implement tasks foreseen by the act. The GIFI distributed of 10,000 copies of the guide among the obliged institutions and

cooperating units. The guide presents a transparent typology of suspicious transactions, describes the methods of transactions identification, discusses the duties of the obliged institutions and cooperating units, contains practical guidelines and numerous examples. Specific guidelines and examples of proper preparation to fighting the phenomenon of money laundering also have been given (the General Inspector in 2005 published the second edition of the book entitled "Counteracting money laundering").

The obligated institutions used to receive also during training courses examples of such indicators developed by Polish FIU and organization created to fight against money laundering from other countries. A comparison made between the number of notifications submitted to the General Inspector before starting the trainings and the number of such reports sent to the GIFI after such trainings demonstrated an increase in the number of suspicious transactions reports made.

Ad 1.4

This subject has been deeply analysed at the international level. Due to that Article 24.2 of Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (further: the Directive) states that where a transaction is suspected of giving rise to money laundering or terrorist financing and where to refrain in such manner is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering or terrorist financing operation, the institutions and persons concerned shall inform the FIU immediately afterwards. It seems to be necessary to analyse if article 17 of the Act should be amended. Since Poland is currently preparing new amendment to the Act the subject can be discussed by the experts. Nevertheless one has to remember that Poland, as the Member of the European Union, is bound to transpose the Directive into the national legal system.

Ad 1.5

Article 299 of the Penal Code stipulates the penal liability for money-laundering, related to the proceeds of any crime which includes terrorist offence.
Please find below the text of Article 299 of the Penal Code:

Article 299. § 1. Whoever receives, transfers or transports abroad, assists in its transfer of title or possession of legal tenders, securities or other foreign currency values, property rights or real or movable property derived from the proceeds of crimes, or takes other action which can prevent, or make significantly more difficult, determination of their criminal origin or place of deposition, detection or forfeiture shall be subject to the penalty of deprivation of liberty for a term of between 6 months and 8 years.
§ 2. The punishment specified in § 1 shall be imposed on anyone who, being an employee of a bank, financial or credit institution, or other entity legally obliged to record transactions and persons carrying out transactions, unlawfully receives in cash money or foreign currency, transfers or converts them, receives them under other circumstances arousing justifiable suspicion as to their origin from acts specified in § 1, or provides services to conceal its unlawful origin or in securing them against seizure.
§ 3. Whoever, being responsible in a bank, financial or credit institution for informing the management or financial supervising authority about undertaking a financial operation, does not do so promptly in the form provided for in law, in spite of the fact that surrounding circumstances of the

financial operation are indicative of a justifiable suspicion as to the origin [of the amounts involved], being as specified in § 1 shall be subject to the penalty of deprivation of liberty for up to 3 years.
§ 4. The punishment specified in § 3 shall be imposed on anyone who, being responsible in a bank, financial or credit institution for appointing a person authorised to receive information specified in § 3, or providing it to an authorised person, does not observe the provisions in force.
§ 5. If the perpetrator commits the act specified in § 1 or 2 acting in co-operation with other persons, he shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.
§ 6. The punishment specified in § 5 shall be imposed on a perpetrator who, by committing the act specified in § 1 or 2, gains considerable material benefit.
§ 7. In the event of conviction for the offence specified in § 1 or 2, the court shall decide on the forfeiture of items derived either directly or indirectly from a crime, even though they are not the property of the perpetrator.
§ 8. Whoever voluntarily disclosed before a law enforcement agency, information about persons taking part in the perpetration of an offence or about the circumstances of an offence: if it prevented the perpetration of another offence, he shall not be liable to the penalty for the offence specified in § 1-4; if the perpetrator undertook efforts leading to the disclosure of this information and circumstances, the court may apply extraordinary mitigation of punishment.

Ad 1.6

Training

One of the statutory tasks of the GIFI, according to the Article 4 (5) of the Law of 16 November 2000, is the initiating and taking of other actions serving to prevent the use of the Polish financial system to legalize revenues derived from illegal or undisclosed sources, **including the training of personnel of obligated institutions within the scope of the responsibilities of these institutions.**

The efficiency of functioning of the system of counteracting money laundering, to a large degree depends on the knowledge of the obligated institutions' employees about this phenomenon and the threat it presents to the financial system of the state, relevant binding regulations and practical methods of recognising and spotting the suspicious transactions. Taking this into consideration, special trainings have been prepared for specific obligated institutions (banks, insurance companies, currency exchange offices etc.) by the General Inspector of Financial Information, in the scope of tasks imposed on those institutions. The objectives of the trainings designed for obligated institutions' employees are the following:

- Learning about the problems of money laundering
- Learning about the danger resulting from the laundering of money
- Acquisition of knowledge about the Act's objectives
- Learning about the tasks and obligations of the obligated institutions
- Acquisition of competences concerning the application of the Act's provisions
- Learning about the ways and methods of money laundering on examples

In 2003 the GIFI prepared and implemented a new formula of training for obligated institutions in the field of implementation of duties imposed by the act. Its aim was to facilitate, for those interested, access to information on implementation of provisions of the act in practice. Programmes for two categories of recipients from obligated institutions have been prepared - for obligated institutions' **employees** (basic training) and for obligated institutions' **trainers** (extended, specialized, including issues of training methodology).

The program of the basic training for **employees** included penal issues, Polish and international regulations pertaining to the combating of money laundering and issues relating to the registration of transactions and providing information to the General Inspector of Financial Information. The object of these training courses was to acquaint the employees responsible for the enforcement of the regulations of the Act with the statutory tasks of the GIFI and the obligated institutions, as well as with criminal responsibility for breaching the provisions of the Act. The training courses were designed to develop positive attitudes regarding the application of the Act and the importance of individual employees of the obligated institutions within the money laundering prevention system and the fight against the illegal economic activity. Specialized trainings **for trainers** end with a test. A certificate bearing participant's name is issued afterwards. Obligated institutions sent to such trainings those employees who were to perform the function of a trainer, i.e. the person training all other employees of the obligated institution in the scope of implementation of duties resulting from the provisions of the Act and from internal procedures.

Among the entities trained by the General Inspector in 2003 were representatives of the following categories of obligated institutions:

- banks - 263 trainers and 38 employees,
- insurance undertakings - 76 trainers,
- foreign exchange offices - 48 trainers and 276 employees,
- games of chance - 41 trainers,
- factoring - 7 employees,
- brokerage houses - 49 trainers,
- jewelers - 20 employees,
- real estate agents - 20 trainers,
- leasing - 50 employees,
- cooperative savings and credit unions - 18 trainers.

The above mentioned trainings were organized on permanent basis. Special attention should be paid to the fact that such trainings were organized with reference to needs and applications send by obligated institutions to the General Inspector. Furthermore, such trainings were being modified

permanently. Main stress was laid on transmitting practical knowledge related to the implementation of duties imposed by the Act and on the specific character of activity of different institutions.

In 2004 the trainings organised by the General Inspector were dedicated to the obligated institutions mainly to the presentation of the method of transferring information from the transactions registers by means of electronic information carriers. During 3 workshops delivered under Phare 2002 programme, 152 representatives of all Polish banks were trained and during another 2 trainings 102 representatives of the remaining obliged institutions (insurance companies, brokerage houses, state public utility enterprise Poczta Polska (Polish Post), the investment funds societies and investment funds, entities engaged in currency exchange and pawnshops, real estate agents, antique shops and entities engaged in activity in the scope of precious and semi-precious metals or stones trade, enterprises conducting leasing and factoring activities, entities conducting activity involving games of chance, mutual betting and automatic machine games and notaries (public) received training.

Furthermore, in 2004, the General Inspector prepared "E-learning " course for obligated institutions. E-learning training course was launched on 15 January 2004. E-learning is a form of distant learning using inter alia the Internet as a transfer medium. Deciding on e-learning the General Inspector of Financial Information wanted to ensure the possibility of participation in the training for a large group of obligated institutions' employees - the 2-week virtual training cycle may cover 400 employees at a time (300 employees of OI, 75 employees of cooperating institutions and 25 of other so called "interested entities") - without the need to increase costs connected with participation in "traditional training" (among others costs of per diem and travel of the employee) - at a time convenient for the employee.

The course scenario was based on the materials consisting of 9 lessons, prepared by the employees of the Department of Financial Information.

1) Basic issues of counteracting money laundering and financing of financing (preceded by an Introduction).
2) Entities participating in counteracting money laundering.
3) The tasks of Obliged Institutions.
4) Identification of suspicious transactions.
5) „Get to know your client" programme in the entities covered by the Act.
6) The internal procedure in an obliged institution.
7) Transfer of information to the GIFI.
8) Control of compliance with the provisions of the Act
9) Criminal responsibility for the infringement of legal provisions.

The course has been prepared on the basis of methodology and didactic's principles and contains interactive elements to provide the best possible learning conditions for the course participants. The training course is terminated by a test to check the participants' knowledge. After an employee of an obliged institution successfully passes the online test, he/she receives a certificate confirming of the course completion.

Between 15 January and 31 December 2004, 2194 persons participated in the course and 1788 persons passed the final test.

Between 21 March and 15 December 2005, 2913 employees form the obligated institutions participated in the course and 2659 employees passed the final test.

The significant result of such trainings performed by the General Inspector is creation of comprehensive system of combating money laundering. Social consciousness concerning the problem of legalisation of proceeds derived from illegal or undisclosed sources is the next important effect. Thanks to the such trainings the employees of the obliged institution, who beyond question pay immense role in the whole system, are more aware and experienced what leads to the increase in the suspicious transactions reports. This number increases every year.

Ad 1.7
The Committee will find attached to this report an English version of the amended Law of 16 November 2000.

Ad 1.8
Regarding the rules concerning knowledge about the bank clients see art 52 of the bill " Polish Bank Law", which says that bank account agreement should specify its parties (see below). Same provision is repeated in the article 53 of the above mentioned Law (personal named passbook, see below). Taking it into account, it means that the party of the agreement is thus individualized, what preserves from existing in banks turnover instruments payable at sight.

Art. 52 [Bank account agreement] 1. A bank account agreement shall be concluded in writing.

2. A bank account agreement should specify, in particular:

1) parties to the agreement,
2) type of account being opened,
3) account currency,
4) duration of the agreement,
5) the rate of that interest and the premises for admissibility of its being changed by the bank, as well as the times of its payment, placing at the disposal and capitalization of interest accrued, unless the parties reserve interest on the funds held in the account,
6) amount of the fee and charges for the performance of operations relating to the execution of the agreement, as well as the premises and procedure for them being changed by the bank,
7) forms and scope of money settlements performed under orders of account holders and the times for their execution,
8) the premises and procedure for amending the agreement,
9) the premises and procedure for terminating the bank account agreement,
10) the limits of bank's liability for timely and proper performance of money settlements and the amount of compensation payable when the time of execution of the account's holder order has been exceeded.

3. For the purpose of computing interest on funds held in bank account, the year shall be assumed to comprise 365 days.

Art. 53. [Savings account] 1. A bank may issue to holders of saving accounts and holders of term savings deposit accounts a named passbook or other named document confirming that an agreement has been concluded. The name of the document should include the word "savings" used in an appropriate form.

2. The issue of the document, referred to in item 1, shall relieve the bank from the duty to send statements of that account to the bank account holder.

3. Should the document referred to in item 1 be lost, it shall be annulated. (...)

Ad 1.9

Hawala systems or cash couriers systems in Poland are not officially, legislatively nor administratively regulated.

Ad 1.10

In Poland there is no monitoring of charity organisations by Central Bureau of Investigation. Regarding to the Polish Law there has to be a suspicion of breaking the law in order to control such institutions.

As far as money laundering is mentioned, the only responsible authority for that procedure is General Inspector of Financial Information (GIIF).

Ad 1.11

The Act has been amended on the 1st May of the 2005 to make charitable foundations one of the obliged institution. As being one, those foundations are obliged to register transactions, identify its clients, forthwith make available information concerning transactions subjected to the provisions of the Act, also upon a written demand by the General Inspector. Also to provide the General Inspector with the information about registered transactions.

Ad 1.12

The Police has authority to give licences for guns and weapons in Poland. There are special divisions established in every voivodship (unit of an administrative division. There are 16 voivodships in Poland) for that matter.

Ad 1.13

Methods and institutions that are used by the Head of Internal Security Agency and the Agency itself are listed in the *Act on Internal Security Agency and Intelligence Agency*, dated May, 24 2002, (*Official Journal no. 74, point 676* with subsequent amendments). The detailed list of legal tools is included in Chapter 4 – "Capacities of Internal Security Agency and Intelligence Agency officers."

Moreover, due to the Prime Minister's Disposition No. 33 dated March 21, 2005 the *Team for Coordination of Operational and Intelligence Activities against Political Terrorism* has been set up. The chairman of the Team is the Head of Internal Security Agency. Its members are:

a) the Secretary of State in the Ministry of Internal Affairs,
b) the Under-Secretary in the Ministry of Finance – General Inspector of Financial Information,
c) the Chief of Police,
d) the Chief of Border Guard,
e) the Head Deputy of Intelligence Agency,
f) the Chief Deputy of Military Intelligence,
g) the Chief of Military Police,
h) the Head of Bureau of Government Protection,
i) the Head of Customs Control Department in the Ministry of Finance,
j) the Secretary of Collegium for Special Services.

The set of tasks for the Team includes preparing current analyses and threat assessments as far as acts of political terrorism are concerned. The body is also responsible for working out flexible and adequate mechanisms in terms of responding to a threat to state's security, as well as for coordinating operational and intelligence activities of special services in that respect.

Ad 1.14

There are following ways of information exchange between Police and Interpol:

- participation in the Fusion Task Force Project in order to cooperate with other countries for investigation matters regarding terrorism. The responsibility of that group is to receive and to pass on important information about terrorist organisations and persons suspected of terrorist activity.
- Exchange of red notices with Interpol regarding all wanted terrorists with. Their data are put into the databases of the Central Bureau of Investigation.

Ad 1.15

The Police, especially the Central Bureau of Investigation, constantly participates in the following projects and groups:

- PWGT (Police Working Group on Terrorism)
- WPT (Working Party on Terrorism)
- Interpol
- Europol
- Liaison Officers of other countries.

To conclude, the present cooperation allows the Police to get acquainted with current threats emerging worldwide, technical means and concept solutions of combating terrorism. It also enables the Police to get to know and establish direct contacts with policemen in charge of counteracting terrorism in other European countries. Moreover due to that cooperation Member States are able to exchange information regarding the terrorist incidents and about the terrorist activities. These information are send by Elektro-Dat or by BdL System.

In Counterterrorism Division of Central Bureau of Investigation of HQ exists a computer database in which over 4500 incidents and about 12 000 persons are registered, but this list considers people involved in crimes with usage of explosives since 1990.

Ad 1.16

Since may 2004 Poland has become a party to the Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the suppression of Unlawful Acts against the Safety of Civil Aviation, done in Montreal on 24 February 1988. The above mentioned Protocol was ratified on 31 May 2004 and it entered into force for Poland on 11 September 2004.

Regarding the Convention on the Marking of Plastic Explosives, done in Montreal on 1 March 1991 the appropriate parliamentary procedure is finished and the instrument of ratification awaits the signature of the President of the Republic of Poland. It is assumed that the Convention will be ratified in the end of April or in the beginning of May 2006.

Ad 1.17

As previously mentioned all of "the counter terrorist" conventions were ratified in Poland. Subsequently, their provisions, in accordance with Polish Constitution, prevail over the national legislation and are directly applicable, as appropriate. In order to implement several no-executing provisions of conventions Poland has enacted new laws and regulations and introduced amendments to its internal legislation. These measures were undertaken in regard to the following conventions:

- *Convention on the Physical Protection of Nuclear Material*, signed at Vienna on 3 March 1980 was implemented by the provisions of the Nuclear Law of 29th November 2000, the Penal Law of 6th June 1997 and Regulation of the Council of Ministers on Physical Protection of Nuclear Materials of 27th April 2004
- *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, done at Rome on 10 March 1988 and *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*, done at Rome on 10 March 1988 were implemented by the provisions of the Maritime Code of 18th September 2001 and Regulation of the Minister of Infrastructure of 23rd February 2005.

Ad 1.18

Polish law does not make extradition dependent upon bilateral or multilateral treaty between Poland and the requesting state. Extradition may take place even if there is no such treaty - in such case legal basis for surrender of a perpetrator would be constituted by the Code of Criminal Procedure.

Ad. 1.19

No provision of the law sets out the criteria which should be used to decide that a given offence is of a political nature. Hence, this issue would be assessed by the authorities applying the law. Throughout the last years in Poland there have been no cases of refusals to extradite a person due to a political character of the offence committed by this person, and thus no jurisdiction in this area has been developed so far. Poland's entering into so-called anti-terrorist treaties, including the European

Convention on Combating Terrorism, excludes regarding of terrorist offences by the parties to the treaty as political offences.

Ad 1.20

Customs Service cooperates with Border Guard on the basis of Agreement between Minister of Finance and the Commander in Chief of Border Guard of the 28th January 2004 concerning the cooperation between Customs Service and the Border Guard.

Based on this act, the Directors of Customs Chambers and the Heads of Customs Offices signed relevant agreements with Commanders of Border Guard Posts and Commanders of Border Crossing Points.

Cooperation between services is well developed at every level and has practical dimension. Daily-based cooperation as well as the long term projects are highly evaluated by both services and appreciated as an important supporting factor, while performing duties at the border.

Main forms of cooperation are as follows:

1. Exchange of information having impact on control in respect of:
   - persons committing crimes while crossing the border,
   - smuggling attempts and terrorist threats/risks,
   - new places of concealments in the means of transport,
   - data from the electronic data systems,
   - stopping of goods import and stopping persons at the border.
2. Cooperation at the border crossing points.
3. Joint actions on the roads and markets as well as in border zones with the scope of fighting against smuggling of excise goods, illegal residence and employment.
4. Common trainings and sharing of equipment.

The legal basis for Border Guard's (BG) cooperation with Custom Service (CS) is an Agreement No 2. between the Commander in Chief and the Ministry of Finance on co-operation of BG and CS of 28 of January 2004. One of the reasons for concluding the new agreement was a necessity for a closer coordination of activities and providing suitable level of information exchange.
According to the agreement the cooperation includes among others:

- assistance in reviling of illegal migrants or organizers of illegal migration
- mutual assistance in combating crimes and duty offences, smuggling of: drugs, arms, ammunitions, explosives and culture goods, as well as wastes, harmful chemical substances, nuclear and radioactive materials,
- common controls of aliens' stay legality
- providing of efficient border crossing point activity – organization of border and custom control according to current circumstances,
- exchange of intelligence information
- exchange of statistics information

Regional agreements were signed on the basis of the Agreement. The main aim of the activities is a control on roads to the border crossings and aliens' stay legality control.
Last year, during a meeting of the Commander in Chief of the Border Guard and the Chief of the Custom Service, a development of the co-operation was agreed for the next period. It concerns, among others: improvement of border clearance, counteracting of abuses of excise-taxed goods regulation, exchange of information on new method of a control, handing over equipment of CS to Border Guard at the EU internal border. More co-ordination of activities and proper level of information exchange were pointed out as a need.
Exchange of information takes place on a daily basis on particular levels of command.
Assignments on suitable coordination of activities enabled to improve border clearance, especially in the scope of border control of persons who have nothing to declare, by introduction of "green ways".
Common strategy on combating smuggling is being elaborated. The Ministry of Finance is preparing the strategy and will present it (with Ministry of Interior and Administration) to the Prime Minister.
In 2005 BG transferred 10 500 information to CS. CS transferred 20 000 information. On the basis of the information exchange many ad hoc actions were conducted. In general 1 484 common actions and 1016 meetings on different levels of command were performed. The meetings concerned intern alia: protection of border crossing areas against terrorist attacks. 58 common trainings were carried out. BG handed over to CS 50 000 applications for custom control and CS transferred 4626 applications for refusing the entry. The services assisted each other by the access to: the specialist equipment for border control, dogs in service detecting arms and drugs, cars with devices for screening a luggage, as well as radiometric control equipment.
After Polish accession to the EU custom control was abolished on the land border with: Germany, Czech Republic, Slovakia and Lithuania - on internal EU border. CS abandoned border crossings there and carries out only activities using mobile groups on roads leading to the border crossing points. Whereas officers of both services perform duties in border crossings on the external EU border (land border with Russia, Belarus, Ukraine and maritime and air borders).

Ad 1.21
Poland ratified the Protocol of Amendment to the International Convention on simplification and harmonization of customs procedures (so called Revised Kyoto Convention) with the annex I on the 9th of July 2004. The Revised Kyoto Convention entered into force on the 3rd of February 2006. Poland will accede to the Specific Annexes in accordance with the schedule agreed within the customs union of the European Union.

Ad. 1.22
Persons crossing the state border are checked in IT systems (in databases available by Border Guard) wherever they are among persons mentioned by different authorized state institutions (inter alia: intelligence agencies, Police, courts, military forces) in their errands to Border Guard to stop persons or perform other tasks concerning the persons. On 26th of September 2003 a citizen of Algeria was apprehended at the Kraków – Balice Airport Border Control Post as a result of a hit in the national database. He was wanted on an international arrest warrant for being a member of a terrorist organization.
Co-operation of airlines with institutions responsible for state security is developing now into a mechanism which will enable Border Guard and other proper services to monitor directly passenger

list to revile persons suspected of terrorist activity by verifying passenger lists during check-in and border control.
There is no record of apprehension of persons suspected of terrorism by Border Guard as a result of cooperation with airlines.

Ad 1.23
Polish law on citizenship of 15 February 1962 in its article 8 point 2 indicates that in particularly justified cases, which are not listed, the President of the Republic of Poland may grant Polish citizenship to an alien who resides on the territory of Poland for the period of time shorter than five years based on the permit to settle in Poland or even to a alien who resides abroad.
In practice Polish citizenship is granted by the President under this article mostly to persons who had Polish citizenship before, or their parents had Polish citizenship (as our law on citizenship does not provide for restoration of Polish citizenship once lost).
Polish citizenship is also granted to those aliens who stay in Poland for period shorter than five years who have achievements in different fields such as science, culture, art, sports. Every case under this procedure is evaluated individually.

Ad 1.24
The Penal Code contains the following provisions concerning counterfeiting documents:

Article 270. § 1. Whoever, with the purpose of using it as authentic, forges, or counterfeits or alters a document or uses such a document as authentic shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for a term of between 3 months to 5 years.

§ 2. The same punishment shall be imposed on anyone, who fills in a form bearing someone else's signature, contrary to the will of the signatory, and to his detriment or indeed uses such a document.

§ 3. Whoever makes preparations for the offence specified in § 1, shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

Ad 1.25
Protection measures in personal ID documents - "old type"
- special paper with multi-tone water sign
- several elements indicating luminescence in UV ray
- invisible fibres
- thread connecting pages of document with a cover
- lines
- number and serial of the document
- analogical picture protected by dry seal and rural rivet.

Protection measures in personal ID documents - "new type" (polycarbonate card, machine readable document).
- elements indicating tri-colors luminescence in UV ray
- thread indicating luminescence in UV ray
- laser engraving of inscription and picture of the holder
- microprint line

- kine-graphical protection
- CLI element (Changeable Laser Image)
- element in optical-changeable paint (OVI)
- sings in Braille's alphabet

Protection measures in travel documents - passports (series "AA" and "BM", machine-readable document)
- special paper with multi-tone water sign
- elements indicating luminescence in UV ray:
- thread with microprint
- threads connecting pages of document with a cover
- microprint and guilloche
- invisible elements
- all inscriptions in offset-print
protection of the page with personal data:
- inscriptions made by passport needle-printer
- transparent folio with elements printed in plate printing
- elements indicating luminescence in UV

Protection measures in travel documents - passports (series "AB", "AD", machine-readable document). Main additional elements and main differences to "AB" and "BM" series
- invisible and visible fibres indicating luminescence in UV ray
- laser performed number of the document on every page
protection of the page with personal data:
- special paper between polycarbonate
- laser engraving of inscription and picture of the holder
- kine-graphical protection between polycarbonate
- microprints
Internal cover includes: fibres indicating luminescence in UV ray and microprint in plate printing, elements visible in triangle effects and elements in optical-changeable paint (OVI)

Protection measures in newest travel documents – passports (series "ZP") Main additional elements and main differences to series "AB", "AD"
- in upper corners of the document letters in recto verso effect
- the cover includes elements indicating luminescence in UV ray

In diplomatic passport on the basis of "ZP" passport electronic chip with biometrics data is included.

Ad 2.1
Incitement to commit a terrorist act is criminalized under Polish law twofold. First as a abetting to commit a crime and secondly as a separate, *sui generis* offence. The relevant excerpt from the Penal Code is presented below.

Article 18. § 2. Whoever, willing that another person should commit a prohibited act, induces the person to do so, shall be liable for instigating.

Article 19. § 1. The court shall impose the penalty for instigating, and aiding and abetting within the limits of the sanction provided in law for perpetrating.

Article 255. § 1. Whoever publicly incites to the commission of an offence,
shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.
§ 2. Whoever publicly incites to the commission of a crime shall be subject to the penalty of deprivation of liberty for up to 3 years.
§ 3. Whoever publicly praises the commission of an offence, shall be subject to a maximum of 180 times the daily fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to one year.

Ad 2.2
According to relevant provisions of the Polish law no decision on granting an alien any form of residence permit or protection may be rendered without prior opinion on national or public security issues given by the Chief of Internal Security Agency.
In all such proceedings authorities are also either obliged or free to seek information on security issues from other agencies, i.e. Police or Border Guards.
All aforementioned opinions are of advisory value only, but they constitute important evidence in every case always considered before any decision is reached.
The legal basis is:
1. Act of 13 June 2003 on Aliens (Journal of Laws of 2003, No. 128, item 1175)
2. Act of 13 June 2003 on granting protection to aliens on the territory of the Republic of Poland (Journal of Laws of 2003, No. 128, item 1176).

Ad 2.3
Border Guard activities dealing with preventing and combating terrorist threat are in line with UN resolution, as well as declaration and programs of the EU, Council of Europe, OSCE in this sphere.

According to the Ministerial Council of OSCE decision of December the 2nd 2003 concerning establishment of Counter Terrorism Network, contact persons were pointed out in the Border Guard Headquarters responsible for the co-operation in the Network.

BG representatives take part in the creation of European database of model documents - FADO (False and Authentic Documents) thanks to development of "Album of documents' models authorizing to cross the state border of Poland" and BG own secure IT network where it is available. Moreover BG in the international co-operation exchanges information on forgeries of travel documents, takes part in the international meetings and trainings regarded to the problem, *inter alia* in the framework of Europol. The activities are facilitated by a regulation of bilateral co-operation in combating organized crime, including forgery of documents, with a majority of European countries.

BG takes part in works of the Article 6 Committee (for integration of biometric data, and for storage data, security and performance of data).
BG is also an active participant in the international exercises and trainings organized in order to improve efficiency of activities of state services in case of threats connected with terrorism. It is worth to mention exercises of crisis management organized on local level at the border zone, as well in the bigger one (e.g. NATO-CMX or EU-CME) in which governments are included. During the exercises one element to verify is a control of transport across the border prohibited goods or goods which are under international restriction as well as preventing of enter territories of countries participating in the exercises by persons connected with terrorist activities and exercise exchange of findings concerning them. This is the reason why the BG is among the most active institutions in the undertakings.
It is also important to mention an active participation of BG in Poland's activities in the Proliferation Security Initiative – Cracow Initiative (PSI). Since 2004 BG took part in 5 exercises in the framework of the PSI, including two organized or co-organized by Poland. In the framework of PSI elements connected with the international exchange of information on e.g. crossing the border by persons suspected of illegal acquisition of substances use for production of WMD. Further BG' active participation in the PSI is foreseen.
Poland receives substantial material and training assistance from the EU, in the framework of assistance founds, which enhances border control as well as protection against international terrorism. Poland receives also the assistance in this scope in the framework of bilateral co-operation. For example the USA handed over to Polish BG 86 indicators of ionizing radiation. Trainings organized by the USA in last years were connected among others with: methods of searching ships and airplanes, smuggling of dual use materials, methods of conducting investigation in cases of illegal trade of materials use in production of WMD, protection of sea ports from terrorist attacks, fighting international terrorism, human rights in combating terrorism, financing of terrorism, international co-operation in fight with terrorism, security of civil aviation. In October 2005 BG started co-operation with the US party in the area of providing guard on the boards of airplanes. Similar co-operation was undertaken with German party.

Ad 2.4

Poland as a member of the European Union participated in a creation and launching of the Anna Lindh Foundation for the Dialogue between Cultures and Civilisations. The Foundation is located in the Alexandria Library in tandem with the Swedish Institute in Alexandria, and is the first common institution jointly established and financed by all 35 members of the Euro-Mediterranean Partnership (25 EU Member States, Morocco, Algeria, Tunisia, Egypt, Israel, Palestinian Authority, Jordan, Lebanon, Syria, Turkey). The Foundation's main objective is to bring people and organizations from both shores of the Mediterranean closer to each other and to help bridging the gap between them. Particular importance is given to the development of human resources, while youth is the main target group. Another priority is the promotion of tolerance among people by furthering exchanges between members of the diverse civil societies. The Foundation acts as Network of 35 national networks established by the Euro-Mediterranean partners.

Ad 2.5

In Poland there are no religious/political groups of domestic or international character willing to commit terrorist acts motivated by extremism and intolerance. Therefore measures mentioned in answer 2.1 seem to be sufficient.

Ad 2.6

Poland takes all necessary measures while implementing the points listed in Resolution 1624. In particular Poland wants to make sure that domestic legislation is in accordance with human rights law, refugee law, and humanitarian law. The following instances of the Polish law are particularly applicable in that matter: the constitutional norms, trial guarantees of the suspected person, the right to take action in the administrative proceedings.

Article 9 of the Constitution of The Republic of Poland of 2nd April 1997 (Official Journal No: 78, position 483 and from 2001 No: 28, position 319) stipulates that the Republic of Poland observes the binding international law.

In accordance with the doctrine, this provision should be interpreted as widely as possible, so that the definition of "the Republic of Poland" should apply to all public authorities and entities fulfilling the tasks of public authorities. The definition of "the international law" should be understood as the entire international law with particular reference to international agreements, decisions and resolutions of the international organizations and bodies, common international law and rulings of the international courts. Article 87 paragraph 1 of the Constitution states that the ratified international agreements are the sources of generally binding law in the Republic of Poland. Article 91, paragraph 1 states that they become part of the internal legal system and are directly applicable after having been published in the Official Journal of the Republic of Poland, unless their application requires passing a statute. Moreover, Article 91 paragraph 2 reads that the agreement ratified with the prior consent given in the statute (that is the agreement concerning: peace, alliances, political and military treaties, freedom, rights and obligations of the citizens defined in the Constitution, membership of the Republic of Poland in international organization, serious financial burden of the country or issues regulated in the statute or issues that require passing a statute) has priority over the statute if the statute does not comply with the agreement. Article 91 paragraph 3 reads that the law stated by the international organization is directly applicable in the Republic of Poland and has priority in case of an overlap with the national law, if it arises from the agreement ratified by the Republic of Poland and constituting an international organization.

Article 2 of the Constitution of the Republic of Poland states that Poland is a democratic country accepting the rule of law and according to Article 7 the public authorities act solely on the basis of and within the limits of the law.

The constitutional provisions mentioned above guarantee that public authorities observe international obligations and provide the authorities with the powers that were clearly assigned to them and to which they have been duly authorized by the law. Many international obligations undertook in the name of the Republic of Poland define a catalogue of actions that are inadmissible (i.e. tortures in order to obtain testimonies) and, according to what has been mentioned above, illegal on the grounds of the internal law.

The Constitution of Poland guarantees many individual freedoms and rights, among which the most important are:

- inviolability, respect and protection by public authorities of the inherent and inalienable dignity of the person;
- legal protection of freedom of the person;
- equality before the law;
- prohibition of discrimination in political, social and economic life for any reason whatsoever;
- legal protection of life;
- prohibition of scientific experiments, without a voluntary consent
- prohibition of torture, cruel, inhuman or degrading treatment or punishment and of corporal punishment;
- personal inviolability and freedom;
- obligation of humanitarian treatment of persons deprived of liberty;
- criminal responsibility shall be held only in reference to acts prohibited by a statute in force at the moment of commission thereof, and which are subject to a penalty or acts constituting crimes at the moment of commission within the meaning of international law;
- right to a fair and public hearing of a case, without undue delay, before a competent, impartial and independent court;
- right to legal protection of honour and good reputation.

The Republic of Poland is legally bound by the provisions of various international agreements relating to human rights:

1. Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome 4 November 1950 together with additional Protocols (O.J. 1993 No. 61 position 284) - from the 19 January 1993;
2. International Covenant on Civil and Political Rights, opened for signature in New York on 19 December 1966 (O.J. 1977 No. 38 position 167) - from the 18 June 1977;
3. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly Resolution on 10 December 1984 (O.J. 1989 No. 63 position 378) - from 25 August 1989;
4. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, done at Strasbourg the 26 November 1987 (O.J. 1995 No. 46 position 238) - from 1 February 1995;

Republic of Poland also formulated the following declarations according to which it recognised:
The competence of the European Commission of Human Rights and the jurisdiction of European Court of Human Rights (on the 1 May 1993);
The competence of the Committee against Torture to receive and examine both information and communications formulated on the basis of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984 (on the 12 May 1993);
The competence of the Committee on the Elimination of Racial Discrimination established pursuant to the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, done at New York, the 7 March 1966 (on the 2 December 1998);

It falls within the competence of the Minister of Interior and Administration to conclude bilateral agreements on the co-operation in the field of combating crime. For the time being there are 32 such agreements in force while another 4 were signed. For instance these agreements guarantee - as a rule - the protection of personal data and classified information (e.g. police data) transferred between competent institutions of the States Parties.

Detailed provisions of particular services responsible for protection of public order include additional guarantees. For example Article 14 paragraph 3 of the Police Act (6 April 1990, O.J. 2002 No. 7 position 58 with subsequent amendments) reads that the policemen while performing their duties are bound to respect the dignity of human person and human rights. Moreover, according to Article 16 paragraph 2, policemen may only use the measures which are proportionate to the circumstances and which are necessary to attain fulfilment of given orders. As far as Article 17 paragraph 3 is concerned fire-arms shall be used in such a manner as to cause as little harm as possible to the person against which it is used. Suitable provisions are also to be found in the Border Service Act (12 October 1990, O.J. 2005 No. 234 position 1997 and No. 90 position 757) - Articles 9 paragraph 5, 23 paragraph 1, 24 paragraph 2 and in the Government Protection Bureau Act (16 March 2001, O.J. 2004, No. 163 position 1712 and No. 210 position 2135) - Articles 12 paragraph 2, 14 paragraph 2 and 15 paragraph 2.

The provisions adopted in the Criminal Procedure Code (6 June 1997, O.J. 1997 No. 89 position 555 with subsequent amendments), also provide the safeguards regarding to human rights law. Specifically the following Articles: 4 - which reads that organs instituting criminal proceedings are bound to investigate and take into account both those circumstances in favour and those against the accused; 5 - stating that the accused is presumed innocent until he is proved guilty by a final judgement and all remaining doubt is to be settled in favour of the accused; 6 - according to which the accused has a right to defend himself in a court.

The issues of international humanitarian law, international law of human rights or the questions of refugee law are taken into account during the training of agents of the Police or Border Service and obligations arising therefrom are reflected in suitable regulations and provisions directly regulating the principles of the service and of performing duties. Moreover, within the Police and Border Services there are specialised agencies responsible for detecting and investigating the agents being in the breach of the provisions of law or transgressing their competence. For instance the Department of Claims and Applications in the Bureau of Control of Police Headquarters has the authority to propagate human rights within the Police and to make efforts to enforce the observance of human rights standards. In the view of what has been stated above it is worth highlighting that the Polish legal system provides the accused or the suspected of terrorist activity on the territory of Poland with the whole range of rights and guaranties aiming at the protection of human rights and at a fair trial.

Ad.3.2

In the opinion of Internal Security Agency, the areas listed in this point can profit from receiving technical support. The body which is relevant to express its opinion in the scope of the first and second area is the General Inspector of Financial Information.

Ad. 4.2

Ministry of Justice has not received any kind of assistance mentioned in the questionnaire.